

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:23-cv-00017-MR**

JESSE N. FRISBEE,)
)
Plaintiff,)
)
vs.) **ORDER**
)
BUNCOMBE COUNTY DETENTION)
FACILITY,)
)
Defendant.)
)

THIS MATTER is before the Court on initial review of Plaintiff's Complaint [Doc. 1], which he purports to file under the Tort Claims Act. See 28 U.S.C. §§ 1915(e)(2) and 1915A. Plaintiff has not moved to proceed in forma pauperis or paid the filing fee in this action.¹

Pro se Plaintiff Jesse N. Frisbee ("Plaintiff") is a prisoner of the State of North Carolina currently incarcerated at Central Prison in Raleigh, North Carolina. He filed this action on January 12, 2023 pursuant to the Tort Claims Act against Defendant Buncombe County Detention Facility (BCDF) in the Eastern District of North Carolina, on behalf of his deceased mother,

¹ Plaintiff filed a separate, but similar action in this District. [Case No. 1:23-cv-00011-MR]. The Court will address that action in a separate order. Because of the duplicative nature of these cases, the Clerk, on the Court's direction, did not issue a Notice of Deficiency in the instant case.

Maria Frisbee.² [Doc. 1]. The Eastern District promptly transferred the case to this Court. [Doc. 2]. Plaintiff alleges as follows.

On February 22, 2022, Ms. Frisbee was “very clearly intoxicated” during the booking process at that BCDF and, at some point, she admitted that she had swallowed drugs. Despite her intoxication and drug ingestion, she was placed in a cell where she was later discovered dead. [Id.]. Plaintiff claims that his mother is dead due to the negligence of employees of the BCDF. [Id.]. Plaintiff does not allege what injuries he has suffered and seeks “more than \$25,000” in damages. [See id.].

The Court will dismiss this action with prejudice as duplicative of Plaintiff’s Complaint in Case No. 1:23-cv-00011, which is being dismissed without prejudice for the reasons stated in the Court’s Order in that action entered concurrently herewith. The Court also notes that Plaintiff’s negligence claim, without more, against a North Carolina Defendant for an amount in controversy less than \$75,000 is not properly before this Court in any event. See 28 U.S.C. § 1332.

²Plaintiff’s Complaint was prepared on a North Carolina Industrial Commission Affidavit form, Form NCIC-T-1. [See Doc. 1.]

ORDER

IT IS, THEREFORE, ORDERED that Plaintiff's Complaint [Doc. 1] is
DISMISSED with prejudice in accordance with the terms of this Order.

IT IS SO ORDERED.

Signed: March 6, 2023



Martin Reidinger
Chief United States District Judge
